This is unfortunate for a number of reasons. In the first place, it seems to imply that there was not part performance by the vendor. Where possession is given under an oral contract of sale, it operates both for and against the purchaser. The owner has allowed the purchaser to do an act on the strength of the contract,—to-wit: enter on the land; the purchaser has induced the owner to do an act on the faith of the contract: withdraw from the land. Both are therefore bound in jurisdictions where taking possession is a sufficient act of part performance. *Wilson* v. *Hartlepool Ry. Co.*, 2 De G. J. & S. 475, 485; FRY: SPECIFIC PERFORMANCE, (ed. 5) § 604. In Michigan mere possession is not enough; but if expenditure by way of improvements and the exercise of acts of ownership will, in addition to possession, amount to part performance for the purchaser, it seems clear that giving up possession to the purchaser and permitting him to do acts which materially lessen the value of the premises should operate in favor of the vendor. The principle in either case is the same. In the second place the doctrine of mutuality of remedy does not furnish the easy solution which the court assumes. It is now an exploded doctrine, so many exceptions having accumulated that the principle is to all intents and purposes gone. Even if it be accepted, one of the recognized exceptions relates to the statute of frauds. If the defendant had signed a memorandum of the contract, the plaintiff might have had specific performance, even though the defendant could not hold him to the contract. AMES, MUTUALITY IN SPECIFIC PERFORMANCE, 3 COL. L. REV. 1, 5, LECTURES LEGAL HISTORY, 370, 373. For cases, see AMES, CASES EQUITY, 421, n. 1. It is difficult to reconcile this decision with such a firmly established exception. Again, it has more than once been declared that the acts of part performance must be done by the party seeking to enforce the contract; indeed it is believed that it would be difficult to gnd a case where that was not the situation. Cf. POMEROY, CONTRACTS (ed. 2) § 105. Finally it is by no means clear that the defendant would be entitled to specific performance. Where something in addition to possession is required the better view is that the acts done must be beneficial to the estate. *Hollis* v. *Edwards*, 1 Vern. 159; *Wolfe* v. *Frost*, 4 Sand. Ch. 79; *Chamberlain* v. *Manning*, 41 N. J. Eq. 651. The court seems deliberately to have selected the weakest basis upon which to support its decision.

TRESPASS—DAMAGES—NOTICE TO AGENT—WILLFUL TRESPASSER.—Where suit was brought against a defendant in trespass for cutting timber from the plaintiff's land, the defendant having relied upon the advice of his attorney that his title to such land was good; *held*, though the defendant was charged with his attorneys knowledge as to the claims of third persons, where he had no actual knowledge thereof and acted in good faith upon the advice of this attorney, he was not guilty of moral bad faith and should be allowed the expenses incurred by him in cutting and removing the timber. *Allen* v. *Frank Janes Co., Limited* (La., 1918), 78 South 115.

In measuring the damages for cutting and removing timber by trespassers the court made a distinction between legal and moral bad faith. One who had knowledge that he had no title to lands, because of the imputation to him of his agent's knowledge of the facts, was held to be guilty of legal

bad faith only. The coort applied the same role of damages usually applied to cases of innocent as distinguished from cases of willful trespass and probably intended the terms to be used synonymously. The principal is liable to third persons for all acts committed by his agent within the actual or apparent scope of his agency, *Mather* v. *Barnes* et al., 146 Fed. 1000. On the question as to whether the malicious acts of the agent imposed any liability on the principal when not done with his assent, there is a decided conflict of authority. 2 *C. J.* 854 (Sec. 537). But in the instant case it is not an act of the agent but his knowledge which is imputed to the principal. It is a well settled general rule that a principal is affected with constructive knowledge, regardless of his actual knowledge, of all the material facts of which his agent receives notice or acquires knowledge, while acting in the course of his employment, although the agent does not in fact inform his principal thereof. *Armstrong* v. *Ashley,* 204 U. S. 272; *Daw* v. *Lally,* 213 Mass. 578. Thus notice to an agent for the purchase of land of the rights of another therein is notice to his principal of such defects in title. *Blair* v. *Whittaker,* 31 Ind. App. 664. If then the defendant in this case had the knowledge of the attorney that there was a defect in his title, in entering upon the premises he was a willful trespasser and logically should not have been allowed his expenses. But as the rule is in some cases a harsh one its operation should be rightly confined to those cases to which it is strictly applicable and it cannot be invoked for the purpose of imputing actual malice in the conduct of the principal because of the facts known to the agent. *Trentor* v. *Pothen,* 46 Minn. 298; *Reisan* v. *Mott* 42 Minn. 49. The principal case affords an illustration of the attempts on the part of the courts to restrict the doctrine of knowledge by imputation so as not to cause injustice or hardship.

WORKMEN'S COMPENSATION — ACCIDENT IN COURSE OF EMPLOYMENT. — Claimant sought compensation under the statute for the death of her husband who suffered a heat stroke while carrying on work pursuant to his employment by defendant. There was no evidence that deceased was exposed by his employment to any greater degree of heat than was any other member of the community generally. *Held,* in view of the fact that the Pennslvania statute provides for compensation for personal injuries resulting from accident received "in the course of employment", claimant should recover. *Lane* v. *Horn & Hardart Baking Co.* (Penna. 1918), 104 Atl. 615.

In almost every other state these facts would not present a case for compensation, the statutes very generally requiring that the injuries shall have been received not only "in the course of employment" but "out of the employment" as well. HONNOLD, WORKMEN'S COMPENSATION, Sec. 101. Injuries from lightning, unless the victim was specially exposed by his employment to such dangers, are thus not within the provisions of the acts generally. In Pennsylvania, though, a person struck by lightning is entitled to compensation if at the time of injury he is working at his job as an employee, but not if he is at home or is not engaged in the business of his employment. The act in Pennsylvania, then, is really an insurance for all employees against accidental injuries received while on the job. The statutes generally may